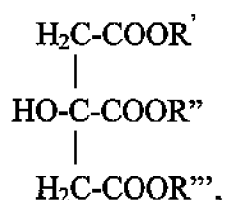


REMARKS/ARGUMENT

The instant invention is directed to a cosmetic composition comprising a clear formulation of: (a) one or more cosmetically-active ingredients; (b) a mixture of isomeric esters of citric acid, the mixtures containing esters corresponding to:



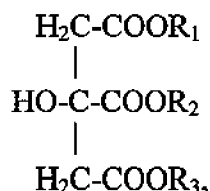
which is prepared by reacting citric acid or a citric acid salt with a mixture of specific alcohols of the general formulas,  $\text{R}^1\text{-OH}$  and  $\text{R}^2\text{-(C}_2\text{H}_4)_n\text{-OH}$ , in a ratio, by weight, of 10:1 to 1:10, at temperatures of 120° to 180°C; (c) an alkyl or alkenyl ether sulphate of the formula  $\text{R}^4\text{O-(CH}_2\text{CH}_2\text{O)}_m\text{SO}_3\text{X}$  or a mixture of these ether sulfates, or an alkyl or alkenyl oligoglycoside of the formula  $\text{R}^3\text{O-[G]}_p$ , or a mixture of these glycosides; and (d) optionally, water.

Claims 44-54, as amended and presented in the Reply with Amendment, dated June 6, 2007, largely in response to and consistent with the Examiner's indication, in a Final Office Action, dated March 15, 2007, that "Claims 44-46... would be allowable if rewritten in an independent form" and "Claims 47-54...would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims", are again pending in the Application.

Reconsideration of the Application is respectfully requested.

Claims 44-54 have been rejected under 35 USC §103(a) as unpatentable over Gagnebien *et al* (U.S.Patent 6,024,947- previously applied against withdrawn Claims 25, 26, and 30-32 by the Examiner on September 28, 2006, and again, with Turchini [published EP Application 0 199 131A2], against withdrawn Claims 35-43 by the Examiner on March 15, 2007) and Gagnebien *et al* (U.S.Patent 5,888,951, issued March 30, 1999).

United States Patent 6,024,947 ('947, Gagnebien *et al*) relates to a method of improving the rinsability of an oily cosmetic composition for cleansing and/or removing make-up from the skin, comprising adding to such composition 0.1 to 10%, by weight in the aggregate, of at least one citric ester according to the formula:



where at least one of  $R_1$ ,  $R_2$ , and  $R_3$  is  $-(\text{C}_n\text{H}_{2n}\text{-O})_m\text{-R}_4$ , and wherein this ester is introduced into an aqueous rinsing lotion, combined with the oily cosmetic composition.

United States Patent 5,888,951 ('951, Gagnebien *et al*) relates to a cleaning composition for make-up removal, or hydrating, deep-cleansing or exfoliating the skin, having good rinsability and preferably having the appearance of a stable, transparent gel, comprising 1 to 95%, by weight, of a fatty phase consisting of compounds suitable for the manufacture of oil-in-water emulsions, such as vegetable, animal or mineral oils, natural or synthetic waxes, and the like; 0.5 to 50%, by weight in the aggregate, of at least one  $\text{C}_5\text{-C}_7$  carbohydrate fatty acid ester formed by reacting a saturated or unsaturated  $\text{C}_8\text{-C}_{30}$  fatty acid with, e.g., glucose or an alkyl glucoside derivative; 0.5 to 60%, by weight in the aggregate, of at least one optionally-oxyalkylenated polyol with at least two free hydroxyl functional groups; 0.5 to 50 %, by weight in the aggregate, of at least one foaming surfactant, preferably chosen from anionic surfactants and amphoteric surfactants, possibly advantageously including a nonionic secondary surfactant selected from, *inter alia*, alkylpolyglycosides; preferably 0.1 to 30%, by weight, of water; and, optionally, known water-soluble or liposoluble adjuvants usual in cosmetics and/or insoluble fillers.

While both references apparently came from the same organization, the Examiner's combination of these references is very unlikely, as the '947 Patent specifically and strongly argues against inclusion of any surfactants (other than the citric acid esters) at column 2, line 62 and column 4, line 25, or a "low level or absence of [other] surfactants" at column 3, lines 6-8, or "few [additional] surfactants" at column 2, line 59, and the '951 Patent specifically requires "at least one foaming surfactant" in addition to the  $\text{C}_5\text{-C}_7$  carbohydrate fatty acid esters, recognizing "disadvantages associated with the usual surfactants", possibly including the fact, as pointed out in the instant Application at page 1, lines 17-21, that "alkyl citrates...in conjunction with anionic...and...certain nonionic surfactants...[can result in] formulation problems", which disadvantages have been overcome in the present invention "through the choice of alcohol

component" (page 1, line 25). Specifically, the pure alkyl ester is not soluble, and it is important to add ethoxylated alcohol and non-ethoxylated alcohol during the preparation of the alkyl ester, as done in the instant invention, resulting in a different product from those claimed in the '947 Patent- a point oversimplified by reducing the difference (a significant one, and deserving greater attention) to "2 to 20 parts of ethylene oxide per alkyl group" in the ethoxylated alkyl groups. In any case, the Examiner is believed to have acknowledged, in the Office Action cited above, that the '947 Patent alone (or in combination with the '131 published EP Application) does not make obvious the instant invention.

With respect to the '951 Patent, as pointed out by the Examiner, the reference "is silent about the citric acid ester mixture" of the instant invention, and Applicants never include either a fatty phase or a polyol in their formulations and, therefore, this reference does not itself either disclose Applicants' invention or make the instant invention obvious. Its intended contribution of anionic surfactants, including sodium lauroyl ether sulphate, and nonionic surfactants, including alkylpolyglucosides, does not overcome the '947 Patent's very strong aversion to the inclusion of any other surfactants with its citric acid esters, as discussed above. Clearly, this reference does not represent a combinable reference that overcomes the deficiencies of the '947 reference in order to reasonably or fairly make the instant Application obvious.

Reconsideration and withdrawal of the rejection is respectfully requested, with an early allowance of this Application being earnestly solicited. However, the Examiner is requested to telephone the undersigned attorney if any further questions remain which may be resolved by a telephone interview.

Respectfully submitted,

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